

CT Attorney General

Connecticut Attorney General's Office

Press Release

Attorney General Announces Anthem Agrees To Remove Barrier To CT Hospital Participation In Charter Oak

January 28, 2010

Attorney General Richard Blumenthal announced today that Anthem Blue Cross and Blue Shield (Anthem) has agreed to waive clauses in its contracts with Connecticut hospitals that threatened to deter them from participating in the state's Charter Oak Health Plan for the uninsured.

"This agreement enables hospitals to freely accept Charter Oak without fear of financial repercussions from Anthem for breach of contract," Blumenthal said. "I commend Anthem for recognizing its moral and potential legal duty to allow Connecticut hospitals to participate in a program that will provide health care coverage to thousands of uninsured citizens.

"These clauses could constrain the expansion and success of the Charter Oak program, and obstruct access to affordable health care for Connecticut residents. I urged Anthem to take this action because the success of Charter Oak is more critical now than ever -- as the ranks of uninsured grow during the worst economic downturn since the Great Depression."

Blumenthal added, "This waiver agreement is a big win for Connecticut patients and taxpayers."

Blumenthal has an ongoing investigation into Anthem's use of "Most Favored Nation" (MFN) clauses in its contracts with hospitals, which require hospitals to provide Anthem with discounts at least as favorable as any provided to its competitors.

In December, Blumenthal said he was concerned that the clause may undermine competition and deter hospital enrollment in Charter Oak, which could jeopardize the success of the program and deprive thousands of Connecticut uninsured citizens of ready access to health care.

Currently, approximately 13,000 Connecticut residents are enrolled in Charter Oak health coverage, but the program has confronted difficulties expanding its network of participating hospitals, due at least in part, Blumenthal believes, to Anthem's MFN contract clauses.

Blumenthal said Anthem's waiver of this clause only applies to Charter Oak, and not any other commercial health insurance offered by competitors. Anthem has sent notices directly to hospitals, informing them of the waiver for Charter Oak.

Blumenthal said, "My investigation into Anthem continues, focusing on its use of

contract clauses -- known as Most Favored Nation clauses -- that require hospitals to provide Anthem with levels of reimbursement at least as low as its competitors. I am pleased that Anthem has recognized the need to carve out Charter Oak from this clause, but have continued concerns about the potential anticompetitive impact on the health insurance market. I commend the company for its continued cooperation in this important ongoing antitrust investigation."

In the summer of 2008, the State of Connecticut offered Charter Oak, a state subsidized plan that was created to provide health insurance to uninsured adult Connecticut residents ages 19 through 64 years of age.

Charter Oak is administered by the Connecticut Department of Social Services. As part of its plan to provide coverage to the uninsured, the state contracted with three private health insurers - - Aetna Better Health, AmeriChoice by UnitedHealthcare, and Community Health Network of Connecticut -- to coordinate benefits in a managed care program and establish provider networks for health professionals and hospitals.

Under Charter Oak, hospitals that agreed to participate were required to accept discounted rates for services and treatment provided to Charter Oak members that were much steeper than the rates hospitals generally accepted for their commercial business. Lower payment rates than those paid by commercial insurers are the norm in publicly-subsidized health coverage programs. Currently, only 17 of the 32 hospitals in Connecticut have executed agreements to participate with Charter Oak insurers, with no hospitals in Windham and Middlesex counties participating.

Blumenthal said some of these non-participating hospitals have delayed or refused to participate out of concern that Anthem may seek to enforce its MFN rights for any hospital that participates in Charter Oak. Although Anthem has not enforced its MFN clause with respect to Charter Oak to date, the waiver eliminates this concern.

The rate of reimbursement to hospitals under Charter Oak is considerably less than the rates hospitals charge Anthem for its commercial plan members. If a hospital did participate in Charter Oak, and if Anthem applied the MFN clause to Charter Oak, the hospital would be exposed to considerable financial penalty as it would have to offer Anthem the same rates or discounts the hospital agreed to with Charter Oak.

Since Anthem is invariably a hospital's largest commercial payer, the loss of revenue to that hospital if that were to occur would be a significant financial detriment to the hospital and a deterrent to participating in Charter Oak.

The Anthem investigation is being conducted by Assistant Attorneys General Rachel Davis and Laura Martella of the Attorney General's Antitrust Department.